

AMENDED IN ASSEMBLY AUGUST 21, 2006

AMENDED IN ASSEMBLY JUNE 22, 2006

AMENDED IN SENATE APRIL 25, 2006

SENATE BILL

No. 1312

Introduced by Senator Alquist

(Coauthors: Assembly Members Berg and Cohn)

February 16, 2006

An act to amend Sections ~~1279~~ 1266.9, 1279, and 1422 of the Health and Safety Code, relating to health care facilities.

LEGISLATIVE COUNSEL'S DIGEST

SB 1312, as amended, Alquist. Long-term health care facilities: inspections.

~~Under~~

(1) *Under* existing law, the State Department of Health Services regulates the licensure and operation of various health facilities, including long-term ~~care~~ health *care* facilities, some of which are collectively classified as nursing homes. Existing law requires the department to conduct periodic inspections of health facilities for which a license or special permit has been issued, to ~~insure~~ *ensure* the quality of care. Existing law exempts certain health facilities that are certified to participate in the federal Medicare and Medicaid Programs from these inspections.

Existing law *establishes the State Department of Health Services, Licensing, and Certification Program Account within the Special Deposit Fund, and requires that specified revenues collected from fees for new and renewal applications for health facility licenses be deposited in the account and be available for expenditure upon*

appropriation to support the Licensing and Certification Program, as provided.

This bill would revise those provisions to instead create the State Department of Health Services, Licensing and Certification Program Fund in the State Treasury.

(2) Existing law, the Long-Term Care, Health, Safety and Security Act of 1973, requires the State Department of Health Services to conduct annual inspections, without notice, of long-term health care facilities, except facilities that have not had serious violations within the last 12 months, and in any case to inspect every facility at least once every 2 years, and further requires the department to vary the cycle for conducting these inspections to reduce the predictability of the inspections.

This bill would delete the above inspection exemption for federally certified health facilities. The bill would require the department to ensure that a periodic inspection required to be conducted pursuant to those provisions is not announced in advance of the date of the inspection.

This bill would specify that inspections and investigations of long-term health care facilities that are certified by the Medicare Program and the Medicaid Program shall determine compliance with federal standards and California statutes and regulations.

This bill would require the department, for purposes of inspecting those long-term health care facilities, to identify state law standards for the staffing and operation of long-term health care facilities. The bill would authorize the department to increase initial licensure and renewal fees for long-term health care facilities in order to recover any additional costs incurred by these requirements.

The bill would specify that the aforementioned provisions relating to the inspection of long-term health facilities shall become operative on July 1, 2007.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) The protection of residents in California's long-term health
2 care facilities is of paramount importance to the citizens of
3 California.

4 (b) During the last two decades, the Legislature has enacted
5 numerous nursing home reform measures designed to improve
6 residents' rights, increase minimum staffing levels, and protect
7 residents from abuse, neglect, and exploitation.

8 (c) While federal regulations and state statutory provisions
9 overlap in some areas, there are numerous state requirements that
10 exceed federal law and provide greater protection to residents of
11 long-term health care facilities.

12 (d) The State Department of Health Services has not
13 developed survey protocols for examining compliance with state
14 regulatory and statutory standards during regular inspections.

15 (e) Nursing homes that do not participate in the federal
16 Medicare Program or Medicaid Program are not being inspected
17 on a regular basis.

18 (f) Existing state law requires the State Department of Health
19 Services to establish and maintain an inspection and reporting
20 system to ensure that long-term health care facilities are in
21 compliance with California statutes and regulations.

22 (g) Therefore, it is the intent of the Legislature to enact
23 legislation to do ~~all~~ *both* of the following:

24 (1) Ensure that California's standards for licensure of
25 long-term health care facilities are maintained.

26 (2) Ensure that long-term health care facilities are inspected
27 for compliance with state standards to the extent that those
28 standards provide greater protection to residents, or are more
29 precise than federal standards.

30 ~~(3) Ensure that the cost of inspections is fully funded by the~~
31 ~~licensure fees imposed on long-term health care facilities.~~

32 *SEC. 2 Section 1266.9 of the Health and Safety Code is*
33 *amended to read:*

34 1266.9. There is ~~established within the Special Deposit Fund~~
35 *hereby created in the State Treasury* the State Department of
36 Health Services, Licensing and Certification Program ~~Account~~
37 *Fund*. The revenue collected in accordance with Section 1266
38 shall be deposited in the Licensing and Certification Program
39 ~~Account Fund~~ and shall be available for expenditure, upon
40 appropriation *by the Legislature*, to support the Licensing and

1 Certification Program's operation. Interest earned on the funds in
2 the Licensing and Certification Program ~~Account~~ *Fund* shall be
3 deposited as revenue into the Account to support the Licensing
4 and Certification Program's operation.

5 ~~SEC. 2.~~

6 *SEC. 3.* Section 1279 of the Health and Safety Code is
7 amended to read:

8 1279. (a) Every health facility for which a license or special
9 permit has been issued shall be periodically inspected by the
10 department, or by another governmental entity under contract
11 with the department. The frequency of inspections shall vary,
12 depending upon the type and complexity of the health facility or
13 special service to be inspected, unless otherwise specified by
14 state or federal law or regulation. The inspection shall include
15 participation by the California Medical Association ~~to the same~~
16 ~~extent~~ *consistent with the manner in which* it participated in
17 inspections, as provided in Section 1282 prior to September 15,
18 1992.

19 (b) Except as provided in subdivision (c), inspections shall be
20 conducted no less than once every two years and as often as
21 necessary to ~~insure~~ *ensure* the quality of care being provided.

22 (c) For a health facility specified in subdivision (a), (b), or (f)
23 of Section 1250, inspections shall be conducted no less than once
24 every three years, and as often as necessary to ~~insure~~ *ensure* the
25 quality of care being provided.

26 (d) During the inspection, the representative or representatives
27 shall offer such advice and assistance to the health facility as they
28 deem appropriate.

29 (e) For acute care hospitals of 100 beds or more, the inspection
30 team shall include at least a physician, registered nurse, and
31 persons experienced in hospital administration and sanitary
32 inspections. During the inspection, the team shall offer advice
33 and assistance to the hospital as it deems appropriate.

34 (f) The department shall ensure that a periodic inspection
35 conducted pursuant to this section is not announced in advance of
36 the date of inspection. An inspection may be conducted jointly
37 with inspections by entities specified in Section 1282. However,
38 if the department conducts an inspection jointly with an entity
39 specified in Section 1282 that provides notice in advance of the
40 periodic inspection, the department shall conduct an additional

1 periodic inspection that is not announced or noticed to the health
2 facility.

3 (g) Notwithstanding any other provision of law, the
4 department shall inspect for compliance with provisions of state
5 law and regulations during a state or federal periodic inspection,
6 including, but not limited to, an inspection required under this
7 section.

8 ~~SEC. 3.~~

9 *SEC. 4.* Section 1422 of the Health and Safety Code is
10 amended to read:

11 1422. (a) The Legislature finds and declares that it is the
12 public policy of this state to ensure that long-term health care
13 facilities provide the highest level of care possible. The
14 Legislature further finds that inspections are the most effective
15 means of furthering this policy. It is not the intent of the
16 Legislature by the amendment of subdivision (b) enacted by
17 Chapter 1595 of the Statutes of 1982 to reduce in any way the
18 resources available to the state department for inspections, but
19 rather to provide the state department with the greatest flexibility
20 to concentrate its resources where they can be most effective. It
21 is the intent of the Legislature to create a survey process that
22 includes state-based survey components and that determines
23 compliance with federal and California requirements for certified
24 long-term health care facilities. It is the further intent of the
25 Legislature to execute this inspection in the form of a single
26 survey process, to the extent that this is possible and permitted
27 under federal law. The inability of the state to conduct a single
28 survey in no way exempts the state from the requirement under
29 this section that state-based components be inspected in
30 long-term health care facilities as required by law.

31 (b) (1) (A) Notwithstanding Section 1279 or any other
32 provision of law, without providing notice of these inspections,
33 the state department, in addition to any inspections conducted
34 pursuant to complaints filed pursuant to Section 1419, shall
35 conduct inspections annually, except with regard to those
36 facilities which have no class "AA," class "A," or class "B"
37 violations in the past 12 months. The state department shall also
38 conduct inspections as may be necessary to ~~assure~~ *ensure* the
39 health, safety, and security of patients in long-term health care
40 facilities. Every facility shall be inspected at least once every two

1 years. The department shall vary the cycle in which inspections
2 of long-term health care facilities are conducted to reduce the
3 predictability of the inspections.

4 (B) Inspections and investigations of long-term health care
5 facilities that are certified by the Medicare Program or the
6 Medicaid Program shall determine compliance with federal
7 standards and California statutes and regulations.

8 (C) In order to ensure maximum effectiveness of inspections
9 conducted pursuant to this article, the department shall identify
10 all state law standards for the staffing and operation of long-term
11 health care facilities. Initial license and renewal fees for
12 long-term health care facilities may be increased pursuant to
13 Section 1266 in order to recover any additional costs incurred by
14 the department as a result of this subparagraph.

15 (2) The state department shall submit to the federal
16 Department of Health and Human Services on or before July 1,
17 1985, for review and approval, a request to implement a
18 three-year pilot program designed to lessen the predictability of
19 the long-term health care facility inspection process. Two
20 components of the pilot program shall be (A) the elimination of
21 the present practice of entering into a one-year certification
22 agreement, and (B) the conduct of segmented inspections of a
23 sample of facilities with poor inspection records, as defined by
24 the state department. At the conclusion of the pilot project, an
25 analysis of both components shall be conducted by the state
26 department to determine effectiveness in reducing inspection
27 predictability and the respective cost benefits. Implementation of
28 this pilot project is contingent upon federal approval.

29 (c) Except as otherwise provided in subdivision (b), the state
30 department shall conduct unannounced direct patient care
31 inspections at least annually to inspect physician and surgeon
32 services, nursing services, pharmacy services, dietary services,
33 and activity programs of all the long-term health care facilities.
34 Facilities evidencing repeated serious problems in complying
35 with this chapter or a history of poor performance, or both, shall
36 be subject to periodic unannounced direct patient care
37 inspections during the inspection year. The direct patient care
38 inspections shall assist the state department in the prioritization
39 of its efforts to correct facility deficiencies.

1 (d) All long-term health care facilities shall report to the state
2 department any changes in the nursing home administrator or the
3 director of nursing services within 10 calendar days of the
4 changes.

5 (e) Within 90 days after the receipt of notice of a change in the
6 nursing home administrator or the director of nursing services,
7 the state department may conduct an abbreviated inspection of
8 the long-term health care facilities.

9 (f) If a change in a nursing home administrator occurs and the
10 Board of Nursing Home Administrators notifies the state
11 department that the new administrator is on probation or has had
12 his or her license suspended within the previous three years, the
13 state department shall conduct an abbreviated survey of the
14 long-term health care facility employing that administrator within
15 90 days of notification.

16 *SEC. 5. Sections 3 and 4 of this act shall become operative on*
17 *July 1, 2007.*